

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ELVIS HANES,

Plaintiff,

vs.

SCOTT FRAKES, Director of NDCS, in their official capacity only; ROSALYN COTTON, Chairman, Nebraska Board of Parole, in their official capacity only; LAYNE GISSLER, members, Nebraska Board of Parole, in their official capacity only; BOB TWISS, members, Nebraska Board of Parole, in their official capacity only; MARK LANGAN, members, Nebraska Board of Parole, in their official capacity only; and HABIB OLOMI, members, Nebraska Board of Parole, in their official capacity only;

Defendants.

8:22CV156

MEMORANDUM AND ORDER

This matter is before the court on three motions filed by Plaintiff.

First, Plaintiff has filed a Motion for Leave to Proceed in Forma Pauperis (“IFP”). (Filing 14.) Plaintiff paid the court’s \$402.00 filing and administrative fees in full on April 22, 2022. (*See* Docket Sheet.) On May 26, 2022, the court entered an order on initial review of Plaintiff’s Complaint (filing 1) and determined that this matter may proceed to service of process on Plaintiff’s First Amendment Establishment Clause claims. (Filing 9.) Because Plaintiff paid the filing and administrative fees and is not proceeding IFP, the court informed Plaintiff that he is responsible for serving Defendants. The court advised Plaintiff that he may request court-ordered service by the U.S. Marshal with the understanding that the U.S.

Marshals Service is required by statute to charge Plaintiff for making or attempting service and may require an advance deposit. (*Id.* at CM/ECF p. 11.) Plaintiff's present IFP motion was prepared prior to the court's May 26, 2022 Memorandum and Order on initial review and does not include any request related to court-ordered service by the U.S. Marshal nor does it address service fees in general. This motion will be denied as moot.

Second, Plaintiff has filed a Motion for Expedited Consideration and Hearing, in which Plaintiff "requests the court to expedite the initial review and schedule a hearing on this matter for good cause." (Filing 12.) This motion is also moot because the court has conducted an initial review of Plaintiff's Complaint and authorized service of process. The case cannot proceed until after service of process is completed by Plaintiff.

Third, Plaintiff has filed a Motion for the Appointment of Counsel. (Filing 13.) This motion will be denied because Plaintiff is not proceeding in forma pauperis.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Leave to Proceed IFP (filing 14) is denied as moot. Plaintiff has paid the filing and administrative fees.
2. Plaintiff is advised that he has until June 27, 2022, to submit a request for court-ordered service by the U.S. Marshal in accordance with the court's prior Memorandum and Order on initial review (filing 9).
3. Plaintiff's Motion for Expedited Consideration and Hearing (filing 12) is denied as moot.
4. Plaintiff's Motion for the Appointment of Counsel (filing 13) is denied.

Dated this 6th day of June, 2022.

BY THE COURT:

A handwritten signature in blue ink that reads "Richard G. Kopf". The signature is written in a cursive, flowing style.

Richard G. Kopf
Senior United States District Judge